

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE:

VITAMINS ANTITRUST LITIGATION

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) Misc. No. 99-197 (TFH)  
)

THIS DOCUMENT APPLIES TO:

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)  
) Bristol-Myers Squibb Co. v. Rhone-Poulenc  
) S.A., et al.; Conopco, Inc. v. F. Hoffman-  
) LaRoche, Ltd., et al.; Perrigo Co, et al. v. F.  
) Hoffman-LaRoche, Ltd., et al.; Natural  
) Alternatives Int'l, Inc., et al. v. F. Hoffman-  
) LaRoche Ltd, et al.; Publix Supermarkets,  
) Inc. v. F. Hoffman-LaRoche, et al.; NBTY, Inc.  
) et al. v. F. Hoffman-LaRoche, Ltd., et al.;  
) Leiner Health Products, Inc. et al. v. F. Hoffman  
) LaRoche, Ltd., et al.  
)

**FILED**

**JAN 19 2001**

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

**ORDER Re: Judgment on the Pleadings**

Pending before the Court are defendants' Takeda Chemical Industries, Ltd, Takeda USA, Inc., Takeda Vitamin & Food USA, Takeda America, Inc., Daiichi Pharmaceutical Co., Ltd., Daiichi Pharmaceutical Corp., Daiichi Fine Chemicals, Inc., Lonza, Inc., Bioproducts, Inc., BASF<sup>1</sup>, Hoffman-LaRoche Inc., Roche Vitamins, Inc., Rhone-Poulenc Animal Nutrition, Inc., Rhone-Poulenc AG Co. f/k/a Rhone-Poulenc, Inc., EM Industries, Inc., Merck KGaA, E. Merck, DCV, Inc., DuCoa, L.P., Eisai USA, Inc., Eisai Inc., Chinook Group, Inc., Chinook Group, Ltd., Robert Samuelson, Reilly Industries, Inc., Degussa-Huls Corp., Con Agra, Inc., and Nepera, Inc.'s Motions for Judgment on the Pleadings pursuant to Fed. R. Civ. P. 12(c) as to portions of plaintiffs Bristol-Meyers Squibb Co, Conopco, Inc., NBTY, Inc., Perrigo Co. Natural

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<sup>1</sup> Because BASF Corp. has not yet answered or otherwise pled in response to the Bristol-Meyers Squibb ("BMS") Complaint, its motion to dismiss BMS's Donnelly Act damage claims allegedly incurred prior to December 23, 1998 is made pursuant to Fed. R. Civ. P. 12(b)(6)

(N)

Alternatives International, Inc., Leiner Health Products, Inc, and Publix Supermarkets Inc.'s claims under the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") and the Donnelly Act. Upon careful consideration of these Motions, plaintiffs' oppositions, and the entire record herein, it is hereby

**ORDERED** that consistent with this Court's May 9, 2000, October 6, 2000, and October 26, 2000 Memorandum Opinions and Orders, defendants' Motions for Judgment on the Pleadings are granted to the extent that they seek dismissal in the NBTY, et al., Conopco, and/or Bristol-Meyers Squibb cases of indirect purchaser damage claims allegedly accruing prior to December 23, 1998; Publix Supermarkets' FDUTPA indirect purchaser damage claims allegedly accruing prior to September 7, 1995; and Conopco, and NBTY, et al.'s FDUTPA indirect purchaser damage claims allegedly accruing prior to July 29, 1995.<sup>2</sup>

January 18<sup>th</sup>, 2001

  
Thomas F. Hogan  
United States District Judge

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<sup>2</sup> This Order is expressly limited to dismissal of certain indirect purchaser damage claims; plaintiffs' direct and injunctive claims under the Donnelly Act and FDUTPA are preserved at this time. To the extent that defendants seek dismissal of Donnelly Act or FDUTPA claims brought by Perrigo, Natural Alternatives International, and/or Leiner Health Products, their motions are denied because these plaintiffs did not assert any such Donnelly Act or FDUTPA claims.